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Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 15 March 2017 from the Permanent Mission of Estonia to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Estonia to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1718 (2006), and hereby submits the report of Estonia on measures taken to implement the restrictive measures imposed by the Security Council in its resolution 2321 (2016).

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Annex to the note verbale dated 15 March 2017 from the Permanent Mission of Estonia to the United Nations addressed to the Chair of the Committee

Report of Estonia on the implementation of Security Council resolution 2321 (2016)

Estonia and the other member States of the European Union have jointly implemented the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council in its resolution 2321 (2016) by taking the following common measures:[1]

- Council Decision (CFSP) 2016/2217 of 8 December 2016 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea,[2] which implemented the designation of additional persons and entities (travel ban and asset freeze)
- Commission Implementing Regulation (EU) 2016/2215 of 8 December 2016 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea[2]
- Council Decision (CFSP) 2017/345 of 27 February 2017 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea.[3]

Council Decision (CFSP) 2017/345 sets out the commitment of the European Union to the implementation of all measures contained in Security Council resolution 2321 (2016) and provides the basis for specific accompanying measures taken by the European Union within the scope of the resolution, notably the following:

- Trade ban applied on nuclear- and/or missile-usable items listed in annex III of resolution 2321 (2016)
- Trade ban on items contained in the conventional arms dual-use list adopted by the Sanctions Committee pursuant to paragraph 7 of resolution 2321 (2016)
- Ban on all leasing, chartering or provision of crew services to vessels or aircraft of the Democratic People's Republic of Korea
- Prohibition of registering vessels in the Democratic People's Republic of Korea, obtaining authorization for a vessel to use the flag of that country and owning, leasing, operating, providing vessel classification, certification or associated services or insuring a vessel flagged by the Democratic People's Republic of Korea
- Clarification that specialized teaching and training that could contribute to the proliferation-sensitive nuclear activities of the Democratic People's Republic of Korea or the development of nuclear weapons delivery systems can also

[1] All common measures are published in the *Official Journal of the European Union*.
[2] See *Official Journal of the European Union L 334*, 9 December 2016.
[3] See *Official Journal of the European Union L 50*, 28 February 2017.

include, but not be limited to, advanced materials science, advanced chemical engineering, advanced mechanical engineering, advanced electrical engineering and advanced industrial engineering

- Suspension of scientific and technical cooperation involving persons or groups who are officially sponsored by or represent the Democratic People's Republic of Korea, except in the case of medical exchanges. In the field of nuclear science and aerospace technology, exemptions can be granted by the Sanctions Committee when it has determined, on a case-by-case basis, that the activity will not contribute to illegal activities. For other fields of technical cooperation, the State concerned can determine that the activity will not contribute to illegal activities and has to notify the Sanctions Committee in advance

- Attribution of the power to list vessels to the Sanctions Committee if it has information or reasonable grounds to believe that the vessels are involved in illegal activities. This includes the additional measures that could be imposed by the Sanctions Committee in this regard

- Restriction on admission to the European Union of members of Government and officials of the Democratic People's Republic of Korea and members of that country's armed forces who are associated with illicit activities

- Limitation on the number of bank accounts at banks in the European Union to one per diplomatic mission and consular post of the Democratic People's Republic of Korea and one per accredited diplomat and consular officer of that country

- Prohibition of the Democratic People's Republic of Korea from using real property that it owns or leases for any purpose other than diplomatic or consular activities, as well as prohibition of leasing real property from the Democratic People's Republic of Korea that is situated outside the territory of that country

- Prohibition of the provision of insurance or reinsurance services to vessels owned, controlled or operated, including through illicit means, by the Democratic People's Republic of Korea

- Prohibition of the procuring of vessels and aircraft crewing services from the Democratic People's Republic of Korea

- Obligation to deregister any vessel that is owned, controlled or operated by the Democratic People's Republic of Korea, including a prohibition of the registering of any such vessel that has been deregistered by another member State

- Extension of export prohibitions: the establishment of a new regime for the export ban on coal, including a cap on exemptions relating to total exports to all United Nations Member States. The power to implement the cap is attributed to the Sanctions Committee. The export ban is extended to include new items: statues, new helicopters and vessels, copper, nickel, silver and zinc

- Financial sector: imposition of an obligation to close existing representative offices, subsidiaries or banking accounts in the Democratic People's Republic

of Korea within 90 days, unless approved by the Sanctions Committee on the grounds that the accounts are required for the delivery of humanitarian assistance or the activities of diplomatic missions

- Prohibition of the provision of public and private financial support, including the granting of export credits, guarantees or insurance to nationals involved in such trade
- Obligation to expel persons who are working on behalf or at the direction of a Democratic People's Republic of Korea bank or financial institution, unless the presence of the person is required for fulfilment of a judicial process or exclusively for medical, safety or humanitarian purposes
- Obligation to seize and dispose of (such as through destruction, rendering inoperable or unusable, storage or transfer to a State other than the originating or destination State for disposal) items the supply, sale, transfer or export of which is prohibited by Security Council resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or 2321 (2016) that are identified in inspections, in a manner that is not inconsistent with their obligations under applicable Council resolutions, including resolution 1540 (2004)
- The Sanctions Committee may grant exemptions to the aforementioned prohibitions on a case-by-case basis, including when it has determined that an exemption may facilitate the work of international non-governmental organizations.

Council Regulation (EU) No. 2017/330 of 27 February 2017 amending Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea[3] gives effect to the measures provided by Council Decision (CFSP) 2017/345 of 27 February 2017.[3]

Estonia has the following national legislation requiring an export authorization for the sale, supply, transfer or export of arms and related materiel[4] to third countries and an authorization for the provision of brokering services and other services related to military activities which, together with Council Decision (CFSP) 2016/849,[5] provides the basis for enforcement of the arms embargo against the Democratic People's Republic of Korea and the ban on related brokering services:

The Strategic Goods Act,[6] in particular section 13 (application for licence), Minister of Foreign Affairs Regulation No. 6 concerning the formats of licence applications[7] and the Weapons Act.[8]

The above-mentioned Council regulations are binding in their entirety and directly applicable in all member States of the European Union. Regulation (EC)

[4] This legislation should apply to all goods included in the Common Military List of the European Union; see *Official Journal of the European Union C 129*, 21 April 2015.

[5] See *Official Journal of the European Union L 141*, 28 May 2016.

[6] *Riigi Teataja RT I*, 12 March 2015 (latest English translation available from www.riigiteataja.ee/en/eli/501022016001/consolide).

[7] *Riigi Teataja RT I*, 29 December 2011; and Minister of Foreign Affairs Regulation No. 6 of 27 December 2011 (no translation available).

[8] *Riigi Teataja RT I*, 19 March 2015 (latest English translation available from www.riigiteataja.ee/en/eli/502022016003/consolide).

No. 329/2007 requires Member States to determine the penalties applicable to infringement of their provisions. The penalties determined by Estonia are set out in the following legislation:

> Penal Code[9] section 93-1[10] (Failure to apply international sanctions), section 421-1 (Illegal carriage of strategic goods or illegal provision of services relating to strategic goods) and section 421-2 (Carriage of prohibited strategic goods or provision of services relating to prohibited strategic goods).

As regards restrictions on admission (visa ban), Estonia has the following national legislation which, together with Council Decision (CFSP) 2016/849 and Regulation (EC) No. 539/2001,[11] provides the basis for refusal of admission and denial of requests for a visa:

> Obligation to Leave and Prohibition on Entry Act,[12] section 33-1 (Prohibition on entry arising from law or court judgment), para. 4; and Government Regulation No. 182 concerning the implementation of restrictive measures against the Democratic People's Republic of Korea.[13]

As regards the ban on specialized training and the suspension of scientific and technical cooperation, a government regulation concerning the implementation of the restrictive measure against the Democratic People's Republic of Korea[14] was enacted on the basis of section 8 (1) of the International Sanctions Act.[15] The regulation prohibits the admission of Democratic People's Republic of Korea nationals to institutions providing higher education and training in disciplines that would contribute to that country's proliferation-sensitive nuclear activities and the development of nuclear-weapon delivery systems. Under the regulation, scientific institutions and institutions providing higher education and training are obligated to suspend scientific or technical cooperation involving persons or groups officially sponsored by or representing the Democratic People's Republic of Korea.

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[9] *Riigi Teataja RT I*, 20 May 2016 (latest English translation available from www.riigiteataja.ee/en/eli/530052016001/consolide).

[10] Note that, in Estonian legislation, new provisions that were inserted in the act as the result of an amendment are usually indicated by an index number (a number in superscript) following the paragraph number, the section number or the sub-section number (e.g. "section 93[1] of the Penal Code"). Another way of indicating new provisions is by inserting a hyphen after the paragraph number, the section number or the sub-section number (e.g. "section 93-1 of the Penal Code"). Throughout the present document, the latter form is used in order to avoid confusion with footnotes.

[11] Regulation (EC) No 539/2001 applies neither to Ireland nor to the United Kingdom of Great Britain and Northern Ireland.

[12] *Riigi Teataja RT I*, 06 April 2016 (latest English translation available from www.riigiteataja.ee/en/eli/522042016003/consolide).

[13] *Riigi Teataja RT II*, 31 May 2016, Government Regulation No. 182 of 27 May 2016 (no translation available).

[14] *Riigi Teataja RT I*, 23 July 2016, Government Regulation No. 84 of 21 July 2016, amended by Government Regulation No. 60 of 9 March 2017 (see *Riigi Teataja RT I*, 14 March 2017).

[15] *Riigi Teataja RT I*, 12 July 2014 (latest English translation available from www.riigiteataja.ee/en/eli/530122014002/consolide).